IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.MC.No. 2682 of 2007()

CP.47/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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PETITIONER:

T.R. RAJESH, AGED 27 YEARS,
S/O. RAMU, THARAYIL HOUSE, KAIPAMANGALAM VILLAGE
AND DESOM, P.O. KAIPAMANGALAM.

BY ADV. SRI.C.HARIKUMAR

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2682 Of 2007

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Dated this the 22nd day of August, 2007

ORDER

Petitioner faces indictment in a prosecution for the offences punishable, under Section 307 and 326 read with 149 IPC. The petitioner is the 3rd accused (not 8th accused as shown in the Crl.M.C.), submits the learned counsel for the petitioner. The petitioner was enlarged on bail at the crime stage. The petitioner could not appear before the learned Magistrate after cognizance was taken. Consequently the case against the petitioner has been split up. The learned Magistrate has issued coercive processes against the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Some of the co-accused who faced trial were found not guilty and acquitted. The petitioner is willing to surrender before the learned Magistrate and seek regular bail , but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE